

REMARKS

By this Amendment, Applicants amend claims 1, 2, 5, 6, and 9-12. Claims 1-16 remain currently pending.

In the final Office Action, the Examiner objected to claims 6, 12, and 16 as being dependent upon a rejected base claim, but indicated that these claims would be allowable if rewritten in independent form. The Examiner rejected claims 1-5, 7-11, 13, and 14 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,513,124 to Furuichi et al. ("Furuichi"); and rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Furuichi in view of U.S. Patent No. 6,317,840 to Dean et al. ("Dean").¹

Applicants thank the Examiner for pointing out the allowable subject matter of claims 6, 12, and 16. Applicants respectfully traverse the Examiner's objection and rejections.

Regarding claim rejection under 35 U.S.C. § 102(e)

Applicants respectfully traverse the Examiner's rejection of claims 1-5, 7-11, 13, and 14 under 35 U.S.C. § 102(e) as being anticipated by Furuichi. In order to anticipate Applicants' claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131,

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

quoting Richardson v. Suzuki Motor Co., 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 1, as amended, recites a combination including, for example, “determining whether a ratio of the total executable instruction count to the clock count exceeds a predetermined value.” Furuichi fails to disclose at least the above listed claim element.

Furuichi teaches a power management method using “[t]he number of executed instructions (I_u) in a user mode as one of performance indexes of a computer, and the total number of total number of executed instructions (I_t) as one of power consumption indexes.” Furuichi, abstract. “The number of executed instructions in a user mode is an example of a performance index, and if a larger number of instructions in a user mode are executed, task performance becomes higher from a user’s viewpoint. Accordingly, an operating frequency is changed to increase the number of executed instructions in a user mode.” Furuichi, column 3, lines 7-14, emphasis added. Further, Furuichi teaches detecting “the total number of executed instructions and the number of executed instructions in the user mode per unit period.” Column 4, lines 57-59, emphasis added. However, the performance index in Furuichi does not constitute “determining whether a ratio of the total executable instruction count to the clock count exceeds a predetermined value,” as recited in amended claim 1.

Although Furuichi teaches using a “unit period” when measuring an “executed instruction in a user mode,” such “unit period” does not constitute “a clock count per unit time of the processor,” as recited in claim 1. In fact, the clock count of Furuichi is the target to be changed based on “the number of executed instructions in the user mode

per unit period.” Furuichi states that “if CPU3 generates an internal clock from a clock signal of the clock generator 9, the frequency of the internal clock may be changed by changing a method for generating an internal clock.” Column 4, lines 32-35. Because the internal clock count of CPU3 per unit period is changeable, Furuichi’s “unit period” does not constitute “the clock count per unit time of the processor,” as recited in amended claim 1.

Therefore, Furuichi fails to disclose each and every claim element of amended claim 1. Thus, Furuichi cannot anticipate amended claim 1 under 35 U.S.C. § 102(e). Accordingly, Applicants respectfully request withdrawal of the Section 102(e) rejection of claim 1. Because claims 2-5, 7, 8, and 14 depend from claim 1, either directly or indirectly, Applicants also request withdrawal of the Section 102(e) rejection of these claims for at least the same reasons stated above.

Further, amended independent claim 9, while of different scope, recites similar language to that of claim 1. Claim 9 is therefore also allowable for at least the same reasons stated above with respect to claim 1. Applicants respectfully request withdrawal of the Section 102(e) rejection of claim 9 and its dependent claims 10, 11, and 13.

Regarding claim rejection under 35 U.S.C. § 103(a)

Applicants respectfully traverse the Examiner’s rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Furuichi in view of Dean, because a *prima facie* case of obviousness has not been established.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103, three basic criteria must be met. First, the prior art reference (or references when

combined) must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Third, there must be a reasonable expectation of success. See M.P.E.P. § 2143.

Claim 15 depends from claim 1 indirectly. As set forth above, Furuichi fails to teach or suggest at least “determining whether a ratio of the total executable instruction count to the clock count exceeds a predetermined value,” as recited in amended claim 1 and required by claim 15. Dean fails to cure Furuichi’s deficiencies.

The Examiner alleges that “Dean teaches wherein a plurality of operational modes includes at least a power saving mode, a standard mode, and a high-speed mode.” (Office Action at 5.) Even assuming the Examiner’s allegation is true, which Applicants do not agree with, Dean fails to teach or suggest “determining whether a ratio of the total executable instruction count to the clock count exceeds a predetermined value,” as recited in amended claim 1 and required by claim 15 (emphasis added).

Therefore, neither Furuichi nor Dean, taken alone or in any reasonable combination, fails to teach all elements required by claim 15. A *prima facie* case of obviousness has not been established. Accordingly, Applicants respectfully request withdrawal of the Section 103(a) rejection of claim 15.

Regarding claim objections

Applicants respectfully traverse the Examiner’s objection to claims 6, 12, and 16. Because claims 6 and 16 depend from allowable claim 1, and claim 12 depends from

allowable claim 9, Applicants respectfully request withdrawal of the objection to claims 6, 12, and 16.

Conclusion

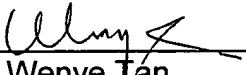
In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: August 30, 2006

By: 
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